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**United States District Court
Eastern District of Washington**

Jasmine McGilvra,

Plaintiffs,

v.

Abbott & Rose Associates, LLC,

Defendant

Case No.:

**COMPLAINT FOR DAMAGES
AND INJUNCTIVE RELIEF
PURSUANT TO THE TELEPHONE
CONSUMER PROTECTION ACT,
47 U.S.C. § 227, ET SEQ.**

Jury Trial Demanded

Plaintiff, JASMINE MCGILVRA ("Plaintiff"), alleges the following upon
information and belief based upon personal knowledge:

NATURE OF THE CASE

1
2 1. The United States Congress has found abundant evidence of the use of
3 abusive, deceptive, and unfair debt collection practices by many debt collectors,
4 and has determined that abusive debt collection practices contribute to a number of
5 personal bankruptcies, marital instability, loss of jobs, and often an invasion of
6 individual privacy. Congress wrote the Fair Debt Collection Practices Act, 15
7 U.S.C. §§ 1692, *et seq.* (hereinafter “FDCPA”), to eliminate abusive debt
8 collection practices by debt collectors, to ensure that those debt collectors who
9 refrain from using abusive debt collection practices are not competitively
10 disadvantaged, and to promote consistent State action to protect consumers against
11 debt collection abuses.

12 3. Plaintiff brings this action seeking damages and any other available
13 legal or equitable remedies resulting from the illegal actions of defendant,
14 ABBOTT & ROSE ASSOCIATES, LLC (“Defendant”), in negligently,
15 knowingly, and/or willfully making material misrepresentations to Plaintiff, among
16 other abusive acts, in violation of the FDCPA.

17 4. While many violations are described below with specificity, this
18 Complaint alleges violations of the statute cited in its entirety.

19 5. Unless otherwise stated, all of the conduct engaged in by Defendant
20 took place in Washington.

21 6. Any violations by Defendant were knowing, willful, and intentional,
22 and Defendant did not maintain procedures reasonably adapted to avoid any such
23 violations.

24 7. Unless otherwise indicated, the use of Defendant’s name in this
25 Complaint includes all agents, employees, officers, members, directors, heirs,
26 successors, assigns, principals, trustees, sureties, subrogees, representatives, and
27 insurers of Defendant.
28

JURISDICTION & VENUE

1
2 8. This Court has federal question jurisdiction over this matter because
3 this action arises out of violations of the Fair Debt Collection Practices Act, 15
4 U.S.C. §§ 1692, *et seq.*, which is a federal statute.

5 9. This Court has personal jurisdiction over Defendant because
6 Defendant conducts substantial business within this judicial district. Thus,
7 Defendant has sufficient minimum contacts within this State and district, and
8 otherwise purposefully avails itself of the markets in this State to render the
9 exercise of jurisdiction by this Court permissible under traditional notions of fair
10 play and substantial justice.

11 10. Venue is proper in the United States District Court for the District of
12 Eastern Washington, pursuant to 28 U.S.C. § 1391, for the following reasons: (1) a
13 substantial part of the events or omissions giving rise to the claims asserted herein
14 occurred within this judicial district; and (2) Defendant is subject to personal
15 jurisdiction by this Court because Defendant conducts business in the State of
16 Washington and regularly conducts business within this judicial district.

PARTIES

17
18 11. Plaintiff is a natural person residing in the State of Washington, and is
19 a “consumer” as defined by the FDCPA, 15 U.S.C. §1692a(3).

20 12. At all relevant times herein, Defendant was a collection agency
21 engaged, by use of the mails and telephone, in the business of collecting a “debt”
22 from Plaintiff, as defined by 15 U.S.C. §1692a(5). Defendant regularly attempted
23 to collect a debt alleged to be due by Plaintiff, and is therefore a “debt collector” as
24 defined by the FDCPA, 15 U.S.C. §1692a(6).

25 13. This case involves money, property or their equivalent, due or owing
26 or alleged to be due or owing from a natural person by reason of a consumer credit
27 transaction. As such, this action arises out of a “consumer debt” and “consumer
28 credit” and a “debt” as those terms are defined by 15 U.S.C. §1692a(5).

FACTUAL ALLEGATIONS

1
2 14. Sometime prior to March 2019, Plaintiff allegedly incurred certain
3 financial obligations.

4 15. These alleged financial obligations were money, property, or their
5 equivalent, for personal, family and/or household purposes, which is due or owing,
6 or alleged to be due or owing, from a natural person to another person and were
7 therefore “debt[s]” as that term is defined by 15 U.S.C. §1692a(5).

8 16. Sometime thereafter, Plaintiff allegedly fell behind in the payments
9 allegedly owed on the alleged debt.

10 17. Plaintiff disputes the validity of Plaintiff’s alleged debt.

11 18. Subsequently, but sometime prior to March 2019, the alleged debt was
12 assigned, placed, or otherwise transferred, to Defendant for collection.

13 19. On or around March 7, 2019, Defendant’s representative Lacy
14 Stevens, called Plaintiff in an attempt to collect on the alleged debt from the
15 telephone number (877) 225-1282.

16 20. Plaintiff is informed and believes the telephone number (877) 225-
17 1282 belongs to Defendant.

18 21. On this March 7, 2019 phone call with Plaintiff, Ms. Stevens told
19 Plaintiff that Defendant intended on serving Plaintiff at her place of employment
20 and that Plaintiff should have a manager there to accept the documents.

21 22. On March 8, 2019, Ms. Stevens called from the telephone number
22 (877) 225-1282 and left a voicemail for Plaintiff that indicated Ms. Stevens was in
23 Plaintiff’s “jurisdiction” and that Ms. Stevens intended on delivering “legal
24 documents” to Plaintiff at Plaintiff’s place of employment shortly.

25 23. on the March 8, 2019 phone call, Ms. Stevens further indicated that
26 she would be attempting to make contact with Plaintiff’s manager or supervisor
27 that would need to be made available at the time of service.
28

1 24. On the March 8, 2019 phone call, Ms. Stevens indicated that Plaintiff
2 would need to have a valid form of identification and that if Plaintiff had any
3 concerns, Plaintiff should call Defendant at (877) 225-1282.

4 25. Finally, on the March 8, 2019 phone call, Ms. Stevens provided
5 Plaintiff with a case number CPLR4355 and told Plaintiff this was her final
6 notification.

7 26. Ms. Stevens never showed up at Plaintiff's place of employment.

8 27. Plaintiff was never served with a lawsuit by Ms. Stevens or by any
9 other representative of Defendant.

10 28. There were numerous misrepresentations provided by Defendant's
11 representative, Ms. Stevens, in Ms. Stevens March 7, 2019 phone conversation and
12 March 8, 2019 voicemail to Plaintiff.

13 29. Plaintiff is informed and believes there is not an active court case
14 against Plaintiff involving Defendant.

15 30. Plaintiff is informed and believes Ms. Stevens was not in Plaintiff's
16 "jurisdiction" on March 7, 2019 and March 8, 2019.

17 31. Plaintiff is informed and believes the "legal documents" that Ms.
18 Stevens referred to in her voicemail are non-existent.

19 32. Plaintiff is informed and believes that Ms. Stevens never intended on
20 serving Plaintiff with legal documents.

21 33. As a result of Defendant's representative's abusive behavior,
22 Defendant's conduct had the natural consequence of which is to harass, oppress,
23 and abuse Plaintiff in violation 15 U.S.C. §§1692d and 1692d(2).

24 34. As a result of Defendant's representative's threat of unauthorized
25 disclosure of Plaintiff's debt to Plaintiff's manager or supervisor, Defendant
26 violated 15 U.S.C. §§1692e(5).

27 35. As a result of Defendant's false threat to serve a lawsuit upon
28 Plaintiff, Defendant violated 15 U.S.C. §§1692e, 1692e(5), 1692e(10), and 1692f.

1 36. Further, Defendant is not a licensed collection agency in the State of
2 Washington.

3 37. Under Washington law, Defendant is required to have a license to
4 collect debts in the State of Washington.

5 38. By operating as a collection agency without a license, Defendant
6 violated 15 U.S.C. § 1692e(5) by attempting to collect a debt when Defendant was
7 not legally authorized to do so.

8 39. By engaging, either directly or indirectly, in the business of collecting
9 or receiving payment for others of any account, bill, claim or other indebtedness, in
10 the State of Washington, without first obtaining a license, Defendant violated 15
11 U.S.C. § 1692e(5) by attempting to collect a debt when Defendant was not legally
12 authorized to do so.

13 40. By attempting to collect the alleged debt from Plaintiff, Defendant
14 falsely represented the legal status of the debt collector and used deceptive means
15 to imply that Plaintiff was obligated to pay the debt in violation of 15 U.S.C. §§
16 1692e, 1692e(2), and 1692e(10).

17 41. By attempting to collect the alleged debt from Plaintiff, Defendant
18 acted in violation of 15 U.S.C. § 1692f(1) by attempting to collect a debt not
19 permitted by law.

20 42. As a result of Defendant's conduct set forth above, Plaintiff suffered
21 damages in the form of mental anguish and emotional distress, which manifested in
22 symptoms including but not limited to frustration, anxiety, loss of sleep,
23 embarrassment, and shame.

24 **COUNT I:**

25 **VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT,**

26 **15 U.S.C §§ 1692, *ET SEQ.***

27 43. Plaintiff hereby incorporates the preceding paragraphs as if set forth in
28 full.

44. The foregoing acts and omissions constitute numerous and multiple violations of the FDCPA, including but not limited to each and every one of the above-cited provisions of the FDCPA, 15 U.S.C. §§ 1692, *et seq.*

45. As a result of each and every violation of the FDCPA, Plaintiff is entitled to any actual damages pursuant to 15 U.S.C. §1692k(a)(1); statutory damages in an amount up to \$1,000.00, pursuant to 15 U.S.C. § 1692k(a)(2)(A); and, reasonable attorney's fees and costs, pursuant to 15 U.S.C. § 1692k(a)(3), from Defendants.

PRAYER FOR RELIEF

46. Wherefore, Plaintiff respectfully requests that the Court grant Plaintiff the following relief against Defendant:

COUNT I:

VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT,

15 U.S.C §§ 1692, *ET SEQ.*

1. an award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1);
2. an award of statutory damages up to \$1,000.00, pursuant to 15 U.S.C. § 1692k;
3. an award of reasonable attorneys' fees and costs of suit, pursuant to 15 U.S.C. § 1692k(a)(3); and
4. any other such relief as this Court may deem necessary, just, and proper.

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TRIAL BY JURY

47. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and hereby demands, a trial by jury.

Respectfully submitted,

Kazerouni Law Group

Date: April 3, 2019

By: /s/ Ryan L. McBride

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